GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Home Department – Orders issued for withdrawal of prosecutions against the sitting or former MLAs/MPs – Orders of the Hon'ble Supreme Court of India in Writ Petition (Civil)No.699 of 2016 (Ashwini Kumar Upadhay and Others Vs Union of India and others) dated 25.08.2021 - Withdrawn the orders issued in Nine (09) G.O.s - Orders –Issued.

HOME (LEGAL.II) DEPARTMENT

G.O.Rt.No.817 **Dated:07.09.2022**

Read the following:

1. G.O.Rt.No.1023, Home (Legal.II) Dept., dt.21.10.2020.
2. G.O.Rt.Nos.1111, Home (Legal.II) Dept., dt.10.11.2020.
3. G.O.Rt.No.85, Home (Legal.II) Dept., dt.28.01.2021.
4. G.O.Rt No. 88, Home (Legal.II) Dept., dt.28.01.2021.
5. G.O.Rt.No.373, Home (Legal.II) Dept., dt.08.04.2021.
6. G.O.Rt No.487, Home (Legal-II), Dept., dt.19.05.2021.
7. G.O.RT.No. 502, Home (Legal.II) Dept., dt.28.5.2021.
8. G.O.Rt.No.550, Home (Legal.II) Dept., dt.16.06.2021.
9. G.O.Rt.No.594, Home (Legal.II) Dept., dt.30.06.2021.
10. Orders of the Hon'ble Supreme Court of India in Writ Petition (Civil)No.699 of 2016 (Ashwini Kumar Upadhay and Others Vs Union of India and others) dated 25.08.2021.
11. From the Registrar General, Hon'ble High Court of A.P., Amaravati, Lr.Roc No 411/SO/2020, dt:07.09.2021, received through CSP No.11681/CSP/2021.
12. Common Orders dt.22.06.2022 of the Hon'ble High Court of AP dt.22.06.2022 in Suo Moto WP.No.28324 & WP (PIL) No.154 of 2021.
13. From the GP for Home & Law, HC of AP., Amaravati, Lr. No Suo Moto WP No.28324 of 2021/VMR/ Home, dt.18.08.2022.

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ORDER:

In the G.O.s 1st to 9th read above, Government have decided to withdraw the prosecutions against the accused and accordingly, directed the concerned authorities to instruct the Public Prosecutor concerned, to file a petition under section 321 of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) on the file of the Hon'ble Courts concerned, under intimation to the Government.

2. In the letter 11th read above, the Registrar General, High Court of Andhra Pradesh, Amaravati has informed that the Hon'ble Supreme Court vide their order dated:25.08.2021 in Writ Petition(Civil) No.699 of 2016, has inter alia directed as under:

> " Adverting to the other issues raised by learned Amicus Curie in his 14th Status report, he has pointed out that the States of Uttar Pradesh, Karnataka, Tamil Nadu, Telangana and Kerala have withdrawn cases of heinous offences in purported exercise of their powers under section 321, Cr.P.C even after 16th September, 2020. Since, we have already issued appropriate directions in respect thereto, vide order dated 10th August 2021, making it obligatory for the State Governments not to

(Contd.,P.2)

withdraw prosecution against sitting or former MPs/MLAs without the leave of the High Court, with a further direction to the High Courts to examine the withdrawals, if any, made by the States on or after 16th September 2020, no further direction is required except to request the High Courts to ask the State Governments to furnish the details of the criminal cases withdrawn after the above-stated cut-off date and examine the Legality, propriety and bona fides behind the withdrawal of each case. The necessary consequences shall follow, depending upon the view taken by the High Courts on the judicial side in such cases of withdrawal of Prosecution".

3. In view of the observations of the Hon'ble High Court of Andhra Pradesh, dated:17.08.2022 during the hearing on Suo Moto WP.No.28324 of 2021 and as advised by the Government Pleader for Home & Law, High Court of Andhra Pradesh, Amaravati in the letter 13th read above, Government after careful examination of the matter, have decided to withdraw the Nine (09) G.Os issued for withdrawal of prosecution against sitting or former MPs/MLAs, in compliance to the directions of Hon'ble Supreme Court of India in Writ Petition (Civil)No.699 of 2016 (Ashwini Kumar Upadhay and Others Vs Union of India and others, dated:25.08.2021, subject to initiation of action afresh on similar lines as has been followed in the subsequent cases where the consent of the Hon'ble High Court was sought. Accordingly, Government hereby withdraw the said orders issued vide G.Os 1st to 9th read above.

4. The Director General of Police (HoPF), Andhra Pradesh, Mangalagiri shall take necessary action in the matter and furnish necessary proposals afresh to Government for initiation of action on similar lines as has been followed in the subsequent cases, where, the consent of the Hon'ble High Court of Andhra Pradesh, Amaravati was sought.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

HARISH KUMAR GUPTA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Director General of Police (HoPF), Andhra Pradesh, Mangalagiri.
The Public Prosecutors concerned through the Director General of Police, Andhra Pradesh, Mangalagiri.
The Collector and District Magistrate, Guntur.
The Government Pleader for Home & Law, High Court of Andhra Pradesh, Amaravati.

Copy to :-
The Public Prosecutor, High Court of Andhra Pradesh, Amaravathi.
The Superintendent of Police, Guntur District.
The Superintendent of Police, Krishna District.
The Superintendent of Police, Chittoor District.
The Superintendent of Police, Urban Police Distrcit, Tirupati.
The Commissioner of Police, Vijayawada City.
The Superintendent of Police, Prakasam District.
The Superintendent of Police, Kurnool District.
The Superintendent of Police, East Godavari District.
The Law (C) Department.
The PS to Spl.C.S to Chief Minister.
The OSD to Minister for Home.
The OSD to Chief Secretary to Government.
SC/SF.

//FORWARDED::BY::ORDER//

SECTION OFFICER